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December 19, 2007

**VIA E-FILING**

The Honorable Joseph J. Farnan, Jr.  
United States District Court  
Federal Building  
844 King Street  
Wilmington, DE 19801

Re: *ProMOS Technologies, Inc. v. Freescale Semiconductor, Inc.*  
C.A. No. 06-788 (JJF)

Dear Judge Farnan:

In connection with the Court's review of the deposition of Freescale's Rule 30(b)(6) witness, Michael Snyder, Freescale notes the following support for certain points discussed at the hearing on Thursday, December 13:

**Examination of witness preparation:**

1. As noted, Mr. Snyder was prepared for his deposition exclusively by counsel for Freescale. Although he was instructed not to answer generally-worded questions about his preparation with other persons, he then was allowed to answer whether he had met with counsel (p. 14, *l.* 6) and for how long (p. 16, *ll.* 10-14). He also testified, "No," in response to the question, "Did you do anything to prepare for your deposition today other than meeting with counsel?" (p. 15, *l.* 16 - p. 16, *l.* 8). He answered various specific questions that would have revealed the identity of other persons he might have consulted, had there been others, and his answers confirmed that he had not met with persons other than counsel (*see, e.g.*, p. 103 at *ll.* 4-7 [; p. 104, *l.* 20 - p. 105, *l.* 3). Thus, in the end, the witness testified as to the persons with whom he had prepared.

2. The documents used for Mr. Snyder's preparation were collected by counsel and are highly protected work product under *Sporck v Peil*, 759 F.2d 312, 316 (3rd Cir. 1985). That case is strict on the foundation required for discovery of such documents. 759 F.2d at 318. Under *Sporck*, one may not ask generally, "Which documents did you review," or even

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generally, “Which documents did you review that refreshed your recollection.” *Id.* Rather, examining counsel must establish a foundation by (1) eliciting “specific testimony” and (2) only then asking “which, if any, documents informed that testimony.” *Id.*

Here, the witness in fact was allowed to testify about the document used to refresh his recollection that listed, by core, the various accused products, the types of caches they contain, and the related Freescale documents (*see* pp. 19-20). ProMOS has not suggested that they have otherwise established the requisite foundation of *Sporck*. Instead, ProMOS asked general questions, without reference to specific testimony, such as, “Did you review any documents that refreshed your recollection about any facts that you’re here to testify about before you appeared for today’s deposition?” (*see* p. 18, *ll.* 8-11; *see also* p. 21, *ll.* 4-5). Under *Sporck*, Freescale was not required to have the witness answer such general questions.

3. At the hearing, the Court appeared interested in the conduct of depositions in the Texas case. As can be seen from the attached excerpt from the rough transcript of yesterday’s rule 30(b)(6) deposition of ProMOS, ProMOS’s counsel engaged in the same type of conduct that he complained at the hearing was improper, e.g. instructing the 30(b)(6) witness on grounds of privilege not to answer the question of how much time had been spent in preparation for the deposition (an instruction that came *after* and despite the parties’ agreement mentioned at the hearing, and below). Thus, ProMOS’s own conduct confirms the propriety of Freescale’s objections to similar lines of inquiry.

**Subsequent agreement:**

As noted, the parties have now reached an agreement that will apply as far as the questions that Rule 30(b)(6) witnesses will be allowed to answer (*see* attached). Thus, the issues raised by ProMOS about proper examination permitted of the preparation of a Rule 30(b)(6) witness are moot.

**Breaks taken where question pending:**

ProMOS complained that Freescale took breaks while questions were pending. From the transcript, it appears that ProMOS believed this occurred in two instances. The breaks were explained at the deposition and were legitimate (*see* pp. 57 and 76).

**Objections as to scope:**

Attached are the objections Freescale served prior to the deposition, based on Freescale’s understanding of the parties’ agreement narrowing the topics to products ProMOS had actually identified as accused (“Exhibit E products”). That objection is also discussed in the first portion of the transcript. The witness was prepared in accordance with Freescale’s understanding of that agreement.

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Respectfully,

*/s/ Mary B. Graham*

Mary B. Graham (#2256)

MBG/dam

Enclosures

cc: Dr. Peter Dalleo, Clerk (via e-filing and hand delivery)  
John G. Day, Esquire (via email)  
Sten A. Jensen, Esquire (via email)  
David L. Witcoff, Esquire (via email)

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## ATTACHMENT 1

### **EXCERPT FROM ROUGH TRANSCRIPT OF RULE 30(b)(6) DEPOSITION OF ProMOS TAKEN BY FREESCALE DATED DECEMBER 18, 2007**

17 Q. [MR. BLACKMAN, counsel for Freescale] You said you spoke to Steve Routh in  
18 preparation for the deposition? When did you speak with  
19 him?

20 A. Yesterday.

21 Q. And any day other than yesterday?

22 A. Not other than scheduling matters like what day  
23 are you available.

24 Q. How long did you speak for [*sic* with] him?

25 MR. ROUTH [counsel for ProMOS]: I'm going to object and instruct

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1 him not to answer. I don't know that there's any  
2 possible reason to inquire into this and it does begin  
3 to intrude into the attorney/client privilege. So  
4 anything beyond that we spoke, I'm going to object to.

5 MR. BLACKMAN: I did not ask him for the  
6 substance of the communications.

7 MR. ROUTH: You asked how long which begins  
8 down the road of substance, at least gives some  
9 indication of the nature of the decisions I'm going to  
10 object and draw the line there.

11 BY MR. BLACKMAN:

12 Q. How long did you speak to Mr. Routh yesterday?

13 MR. ROUTH: Object. And instruct the witness

14 not to answer.

15 BY MR. BLACKMAN:

16 Q. Are you refusing to answer the question?

17 A. On the advice of counsel, I'm refusing to

18 answer the question.

19 MR. ROUTH: We have to draw the line some with.

20 That's why where I'm going to diswriew [MR. BLACKMAN] but that's not

21 privileged communications. But that's not privileged

22 that's not where you draw the line.

23 MR. ROUTH: I appreciate your advice on that.

24 But that's not where I see it. And I sept don't see any

25 reason for that information if I did. I might think it

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1 would be more likely to try to draw the line elsewhere

2 but I can't possible for you to know the length of our

3 discussion to try and get some insight into the obs

4 instance or nature of the discussions that's why I'm

5 drawing the line there.



Attachment 2 (pages agreement pp 7-8)

## ProTEXT Transcript Condensing for Windows

SHEET 1 PAGE 1

PAGE 3

0001

1 REALTIME AND/OR ROUGH DRAFT STIPULATIONS  
 2 REPORTER'S NOTE: YOU MAY BE IN POSSESSION OF A ROUGH  
 3 DRAFT, UNEDITED, UNCERTIFIED TRANSCRIPT. PLEASE BE  
 4 AWARE THAT THERE WILL BE A DISCREPANCY REGARDING PAGE  
 5 AND LINE NUMBERS WHEN COMPARING THE ROUGH DRAFT AND  
 6 THE FINAL VERSION. ALSO PLEASE BE AWARE THAT THE  
 7 ROUGH DRAFT VERSION MAY CONTAIN UNTRANSLATES, ^^,  
 8 MISSPELLINGS, AND/OR NONSENSICAL ENGLISH. THESE ARE  
 9 NOT "MISTAKES" BUT ARE CAUSED BY THE LIMITATIONS OF  
 10 WRITING PHONETICALLY. ALL SUCH ENTRIES ARE CORRECTED  
 11 IN THE FINAL CERTIFIED TRANSCRIPT.  
 12  
 13 ATTORNEY'S AGREEMENT: BY ACCEPTING A ROUGH DRAFT  
 14 TRANSCRIPT OF ANY KIND, I HEREBY AGREE TO THE TERMS  
 15 SPECIFIED BELOW. BY ACCEPTING A ROUGH DRAFT  
 16 TRANSCRIPT, I AGREE THAT I DO NOT FOREGO RENDERING  
 17 PAYMENT FOR A FINAL CERTIFIED TRANSCRIPT.  
 18  
 19 AS THE PARTY WORKING WITH A ROUGH DRAFT TRANSCRIPT,  
 20 UNDERSTAND THAT IF I USE A ROUGH DRAFT TRANSCRIPT  
 21 THAT I DO SO WITH THE FULL KNOWLEDGE AND  
 22 UNDERSTANDING THAT THE ROUGH DRAFT IS UNCERTIFIED.  
 23 IT MAY BE USED IN PLACE OF OR IN ADDITION TO MY  
 24 DEPOSITION NOTES. SPECIFICALLY, IF I CROSS-EXAMINE  
 25 OR PREPARE A WITNESS USING A ROUGH DRAFT, I DO SO AT  
 26 MY OWN RISK; BUT ALSO UNDERSTAND THAT I MAY CONTACT  
 27 THE COURT REPORTER TO REQUEST A SPECIFIC PORTION OF  
 28 THE TRANSCRIPT BE CERTIFIED FOR MY USE.  
 29 I FURTHER AGREE THAT I WILL NOT SHARE OR DISTRIBUTE  
 30 THE ROUGH DRAFT IN ANY FORM WITH ANY OTHER PARTY;  
 31 HOWEVER, MY OWN EXPERTS, CO-COUNSEL AND STAFF MAY  
 32 HAVE LIMITED INTERNAL USE OF THE ROUGH DRAFT, AND I  
 33 AGREE TO DESTROY ALL ROUGH DRAFTS IN ANY FORM AND  
 34 REPLACE THEM WITH THE FINAL VERSION UPON RECEIPT OF  
 35 THE COMPLETED FINAL TRANSCRIPT.  
 36 I FURTHER AGREE THAT I WILL RENDER PAYMENT FOR THIS  
 37 AND ALL RELATED EXTRA SERVICES AS SET FORTH IN THE  
 38 REPORTER'S RATE STRUCTURE. IF I CHOOSE NOT TO ORDER  
 39 A FINAL TRANSCRIPT, I AGREE TO PAY FOR THE HARD COPY  
 40 OR ELECTRONIC FORM OF THE ROUGH DRAFT AS IF IT WERE  
 41 THE FINAL TRANSCRIPT.

0003

1 REPRESENTATIVE, RICHARD FLINCHBAUGH.  
 2 MS. COOK: CAN WE SWEAR IN THE  
 3 WITNESS?  
 4 (THE WITNESS WAS SWORN.)  
 5  
 6 RICHARD FLINCHBAUGH,  
 7 HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:  
 8  
 9 EXAMINATION  
 10  
 11 BY MS. COOK:  
 12 Q. COULD YOU PRONOUNCE YOUR NAME FOR ME? I'M  
 13 AFRAID I'LL DO IT WRONG IF I DO IT MY OWN.  
 14 A. YEAH. IT'S MR. FLINCHBAUGH.  
 15 Q. FLINCHBAUGH.  
 16 MR. FLINCHBAUGH, COULD YOU STATE YOUR  
 17 FULL NAME FOR THE RECORD?  
 18 A. RICHARD FLINCHBAUGH.  
 19 Q. COULD YOU PROVIDE YOUR CURRENT RESIDENTIAL  
 20 STREET ADDRESS?  
 21 A. COLLINGWOOD DRIVE.  
 22 Q. DO YOU UNDERSTAND THAT WE ARE HERE TODAY

PAGE 2

PAGE 4

0002

1 P R O C E E D I N G S  
 2  
 3 THE VIDEOGRAPHER: THIS IS THE  
 4 VIDEOTAPED DEPOSITION OF RICHARD FLINCHBAUGH, TAKEN  
 5 ON BEHALF OF THE PLAINTIFF IN THE MATTER OF PROMOS  
 6 TECHNOLOGIES, INC. VERSUS FREESCALE SEMICONDUCTOR,  
 7 INC., CIVIL ACTION NO. 06-788-JJF, FOR THE UNITED  
 8 STATES DISTRICT COURT, DISTRICT OF DELAWARE; HELD IN  
 9 THE OFFICES OF FULBRIGHT & JAWORSKI AT 600 CONGRESS,  
 10 SUITE 2400, AUSTIN, TEXAS 78701.  
 11 THE VIDEOGRAPHER'S NAME IS ANGELICA  
 12 RODRIGUEZ. THE COURT REPORTER'S NAME IS MARY DOPICO.  
 13 THIS IS THE BEGINNING OF TAPE 1.  
 14 TODAY'S DATE IS DECEMBER 6, 2007. WE ARE ON THE  
 15 RECORD AT 9:26.  
 16 WOULD COUNSEL INTRODUCE THEMSELVES FOR  
 17 THE RECORD?  
 18 MS. COOK: SUSAN COOK FROM HOGAN &  
 19 HARTSON FOR THE PLAINTIFF, PROMOS TECHNOLOGIES.  
 20 MR. AGOZZINO: LEO AGOZZINO WITH JONES  
 21 DAY, REPRESENTING THE DEFENDANT, FREESCALE  
 22 SEMICONDUCTOR, INC. AND THE WITNESS, THE CORPORATE

0004

1 FOR THE PURPOSE OF TAKING YOUR DEPOSITION?  
 2 A. YES.  
 3 Q. I'M GOING TO ASK YOU A SERIES OF QUESTIONS  
 4 AND THE REPORTER SITTING NEXT TO ME WILL TRANSCRIBE  
 5 MY QUESTIONS AND YOUR ANSWERS. DO YOU UNDERSTAND  
 6 THAT?  
 7 A. YES.  
 8 Q. HAVE YOU EVER BEEN DEPOSED BEFORE?  
 9 A. NO.  
 10 Q. HAVE YOU EVER TESTIFIED IN COURT?  
 11 A. NO.  
 12 Q. DO YOU UNDERSTAND THAT YOU WILL BE  
 13 TESTIFYING UNDER OATH TODAY AND UNDER THE PENALTIES  
 14 OF PERJURY?  
 15 A. YES.  
 16 Q. DO YOU UNDERSTAND THAT YOU SHOULD GIVE THE  
 17 SAME SERIOUSNESS AND TRUTHFULNESS IN ANSWERING MY  
 18 QUESTIONS HERE TODAY AS YOU WOULD IF YOU WERE  
 19 TESTIFYING BEFORE A JUDGE OR A JURY?  
 20 A. YES.  
 21 Q. ARE YOU CURRENTLY EMPLOYED?  
 22 A. YES.

## ProTEXT Transcript Condensing for Windows

SHEET 2 PAGE 5

PAGE 7

0005

1 Q. BY WHOM?  
 2 A. FREESCALE SEMICONDUCTOR, INC.  
 3 Q. WHAT IS YOUR TITLE?  
 4 A. CONTRACTS DIRECTOR.  
 5 Q. WHAT ARE YOUR RESPONSIBILITIES?  
 6 A. I MANAGE A GROUP OF PEOPLE, CONTRACT  
 7 MANAGERS, THAT REVIEW CONTRACTS FOR OUR INTERNAL  
 8 CLIENTS IN ADDITION TO REVIEWING THEM ON MY OWN AND  
 9 THE -- HANDLE THE CLAIMS FOR THE COMPANY, CUSTOMER  
 10 CLAIMS, WARRANTY CLAIMS.  
 11 Q. I UNDERSTAND THAT FREESCALE AT SOME POINT  
 12 WAS SPUN OFF FROM MOTOROLA. SO IF MY QUESTIONS TODAY  
 13 ABOUT FREESCALE WOULD BE ANSWERED DIFFERENTLY BASED  
 14 ON TIME PERIOD, PLEASE LET ME KNOW; AND I WILL  
 15 CLARIFY THE QUESTION. IS THAT OKAY WITH YOU?  
 16 A. YES.  
 17 (30(B)(A) EXB. NO. 1 WAS MARKED.)  
 18 Q. (BY MS. COOK) I'M GOING TO BE HANDING YOU  
 19 A DOCUMENT THAT'S BEEN MARKED AS EXHIBIT 1.  
 20 A. OKAY.  
 21 Q. HAVE YOU SEEN THIS DOCUMENT BEFORE?  
 22 A. NO.

0007

1 ABOUT?  
 2 MS. COOK: SURE.  
 3 MR. AGOZZINO: THE PARTIES HAVE  
 4 REACHED AN AGREEMENT WITH RESPECT TO AT LEAST  
 5 30(B)(6) WITNESSES THAT THERE WILL BE NO WAIVER OF  
 6 ATTORNEY/CLIENT PRIVILEGE BY ALLOWING THE EXAMINING  
 7 LAWYER TO PROBE INTO THE WITNESS' PREPARATION IN  
 8 TERMS OF WHO THE PERSON MAY HAVE SPOKEN TO, IN TERMS  
 9 OF WHAT HE DISCUSSED WITH THOSE OTHER PEOPLE, WHAT  
 10 DOCUMENTS HE REVIEWED TO PREPARE HIMSELF TO PROVIDE  
 11 TESTIMONY AS A CORPORATE REPRESENTATIVE.  
 12 IN DOING SO AND ALLOWING THAT  
 13 EXAMINATION, THERE IS NO WAIVER OF THE  
 14 ATTORNEY/CLIENT PRIVILEGE; AND THE COMMUNICATIONS  
 15 BETWEEN THE LAWYER AND THE WITNESS WILL REMAIN  
 16 PRIVILEGED.  
 17 MS. COOK: AND -- AND JUST TO -- TO  
 18 CLARIFY ON THAT POINT, WE AGREE WITH THAT STATEMENT.  
 19 WE DON'T VIEW IT AS A DEPARTURE FROM THE NORMAL  
 20 RULES --  
 21 MR. AGOZZINO: OKAY.  
 22 MS. COOK: -- THAT APPLY, BUT -- BUT

PAGE 6

PAGE 8

0006

1 Q. YOU UNDERSTAND THAT YOU'VE BEEN DESIGNATED  
 2 TODAY TO SPEAK ON BEHALF OF FREESCALE AS TO CERTAIN  
 3 TOPICS; IS THAT CORRECT?  
 4 A. YES.  
 5 Q. DO YOU KNOW WHAT TOPICS YOU WERE DESIGNATED  
 6 TO SPEAK ABOUT?  
 7 A. YES. LET ME ACTUALLY MAKE CORRECT. I'M  
 8 SORRY. I DID -- I HAVE SEEN THIS. I -- I HAVE SEEN  
 9 IT BECAUSE I'VE SEEN THE ONE -- ONE SECTION OF IT.  
 10 Q. OKAY.  
 11 A. YEAH.  
 12 Q. WHICH SECTION ARE YOU REFERRING TO?  
 13 A. THE -- THERE IS ONE ON HERE REGARDING  
 14 CONTRACTS.  
 15 Q. CAN I HELP YOU OUT?  
 16 A. SURE.  
 17 Q. ARE YOU -- IS IT YOUR UNDERSTANDING THAT  
 18 YOU ARE HERE TODAY TO TESTIFY ON BEHALF OF FREESCALE  
 19 ABOUT TOPIC NUMBER 11?  
 20 A. YES. SALES AGREEMENTS, YES.  
 21 MR. AGOZZINO: SUSAN, IS NOW A GOOD  
 22 TIME TO MAKE THE STATEMENT THAT I TALKED TO YOU

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1 YOU ASKED FOR OUR UNDERSTANDING; AND -- AND WE'RE  
 2 CERTAINLY PREPARED TO CLARIFY OUR UNDERSTANDING ON  
 3 THAT POINT, AND WE DON'T VIEW ANSWERING THOSE TYPES  
 4 OF QUESTIONS AS A WAIVER.  
 5 MR. AGOZZINO: THANK YOU.  
 6 Q. (BY MS. COOK) AND THAT LEADS US RIGHT INTO  
 7 THE NEXT QUESTION, WHICH IS: WHAT DID YOU DO TO  
 8 PREPARE FOR YOUR DEPOSITION TODAY?  
 9 A. I JUST HAD SPOKE WITH LEO ABOUT WHAT TO  
 10 EXPECT AT A DEPOSITION, AND LEO PROVIDED A -- JUST  
 11 A --  
 12 MR. AGOZZINO: OKAY. YOU DON'T GET  
 13 INTO -- EXCUSE ME.  
 14 WITH RESPECT TO COMMUNICATIONS BETWEEN  
 15 US, THOSE REMAIN CONFIDENTIAL; BUT YOU'RE FREE TO  
 16 TALK ABOUT DOCUMENTS THAT YOU MAY HAVE REVIEWED --  
 17 THE WITNESS: RIGHT.  
 18 MR. AGOZZINO: -- OR PERSONS THAT YOU  
 19 MAY HAVE CONTACTED IN PREPARATION FOR THE TOPIC, BUT  
 20 THE SUBSTANCE OF OUR COMMUNICATION -- YOU REALLY  
 21 HAVEN'T GOTTEN INTO IT, BUT PLEASE REFRAIN FROM  
 22 PROVIDING --



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

PROMOS TECHNOLOGIES, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 06-788 (JJF)
	)	
FREESCALE SEMICONDUCTOR, INC.,	)	
	)	
Defendant.	)	
	)	

**FREESCALE'S OBJECTIONS TO PROMOS'S  
SECOND NOTICE OF DEPOSITION PURSUANT TO RULE 30(B)(6)**

Freescall Semiconductor, Inc. ("Freescall") provides the following objections to the second notice of deposition served on Freescall by ProMOS Technologies, Inc. ("ProMOS") in the above-captioned matter, dated August 3, 2007.<sup>1</sup>

**GENERAL BACKGROUND TO OBJECTIONS**

ProMOS's First and Second Notices of Deposition were the subject of correspondence and several meet-and-confer sessions between counsel in order to resolve the objections that Freescall had to their overbreadth and lack of particularity. After several other discussion, in a July 20 meet-and-confer involving Drexel Feeling, David Witcoff and Mary Graham for Freescall and Steve Routh, Susan Cook and Sten Jensen for ProMOS, ProMOS clarified and agreed that the deposition scope: (1) would be limited to the identification of documents; (2) would not be used to address the technical details of Freescall's products, and in particular, would not be used as a back-door vehicle to address technical details at the level of the Chan patents' claims; and (3) would be limited to the types of documentation Freescall has

<sup>1</sup> Freescall understands that the Second Notice replaced and rendered inoperative the First Notice of Deposition.



generated for the cache-related sections of the Freescale products identified in Exhibit E to ProMOS's first motion to compel. ProMOS further agreed that its deposition questions would not be directed to claim language or whether certain Freescale technology met claim limitations. After reaching that agreement on the deposition scope, ProMOS served its Second Notice of Deposition Pursuant to Rule 30(b)(6), to which these objections respond.

Freescale hereby understands the deposition topics in ProMOS's Second Notice of Deposition Pursuant to Rule 30(b)(6) to be limited to the parties' agreement as delineated above, and Freescale will object to questioning that strays outside the bounds of this agreement (or outside the topics of the Notice). As indicated during the meet-and-confer, Freescale also reserves the right to instruct its witness(es) not to answer questions outside the scope of this agreement. Finally, Freescale invited ProMOS to provide its topics in greater particularity, but it declined. Thus, Freescale will prepare its witness to testify to the below topics at a reasonable level of detail given the general level of the topics, and ProMOS should not be heard to complain if Freescale has not anticipated every question that ProMOS asserts is within the scope of the topics, regardless of its level of detail.

### **SPECIFIC OBJECTIONS**

#### **DEPOSITION TOPIC NO. 1:**

Documents maintained by Freescale that evidence the design and/or features of cache memories contained in Freescale Products.

#### **OBJECTIONS TO DEPOSITION TOPIC:**

Freescale objects to this topic to the extent it is not limited in scope to the Freescale products identified in Exhibit E to ProMOS's first Motion to Compel. Freescale also specifically objects to this topic because it is overly broad and lacks reasonable particularity with respect to any parameters reasonably related to the claims of the Chan patents. Freescale further

objects to this topic to the extent it calls for claim constructions or the correspondence between claim terms and Freescale products.

Without waiving any and subject to all of the foregoing objections and pursuant to the parties' agreement, Freescale will produce a witness(es) with knowledge regarding the types of documentation Freescale generates for the cache-related sections of the Freescale products identified in Exhibit E to ProMOS's motion to compel.

**DEPOSITION TOPIC NO. 2:**

Documents maintained by Freescale that evidence how cache memories are accessed in and/or used in Freescale Products.

**OBJECTIONS TO DEPOSITION TOPIC:**

Freescale objects to this topic to the extent it is not limited in scope to the Freescale products identified in Exhibit E to ProMOS's first Motion to Compel. Freescale also specifically objects to this topic because it is overly broad and lacks reasonable particularity with respect to any parameters reasonably related to the claims of the Chan patents. Freescale further objects to this topic to the extent it calls for claim constructions or the correspondence between claim terms and Freescale products.

Without waiving any and subject to all of the foregoing objections and pursuant to the parties' agreement, Freescale will produce a witness(es) with knowledge regarding the types of documentation Freescale generates for the cache-related sections of the Freescale products identified in Exhibit E to ProMOS's motion to compel.

**DEPOSITION TOPIC NO. 3:**

Documents maintained by Freescale that evidence the design and/or features of cache memory controllers contained in Freescale Products.

**OBJECTIONS TO DEPOSITION TOPIC:**

Freescall objects to this topic to the extent it is not limited in scope to the Freescall products identified in Exhibit E to ProMOS's first Motion to Compel. Freescall also specifically objects to this topic because it is overly broad and lacks reasonable particularity with respect to any parameters reasonably related to the claims of the Chan patents. Freescall further objects to this topic to the extent it calls for claim constructions or the correspondence between claim terms and Freescall products.

Without waiving any and subject to all of the foregoing objections and pursuant to the parties' agreement, Freescall will produce a witness(es) with knowledge regarding the types of documentation Freescall generates for the cache-related sections of the Freescall products identified in Exhibit E to ProMOS's motion to compel..

**DEPOSITION TOPIC NO. 4:**

Features associated with cache memories contained in Freescall Products.

**OBJECTIONS TO DEPOSITION TOPIC:**

Freescall objects to this topic to the extent it is not limited in scope to the Freescall products identified in Exhibit E to ProMOS's first Motion to Compel. Freescall also specifically objects to this topic because it is overly broad and lacks reasonable particularity with respect to any parameters reasonably related to the claims of the Chan patents. Freescall also objects to this topic to the extent it is not limited to the types of documentation Freescall generated for the cache-related sections of the Freescall products identified in Exhibit E to ProMOS's first motion to compel. Freescall further objects to this topic to the extent it calls for claim constructions or the correspondence between claim terms and Freescall products.

Without waiving any and subject to all of the foregoing objections and pursuant to the parties' agreement, Freescall will produce a witness(es) with knowledge regarding the types



of documentation Freescale generates for the cache-related sections of the Freescale products identified in Exhibit E to ProMOS's motion to compel.

**DEPOSITION TOPIC NO. 5:**

Features associated with cache memory controllers contained in Freescale Products.

**OBJECTIONS TO DEPOSITION TOPIC:**

Freescale objects to this topic to the extent it is not limited in scope to the Freescale products identified in Exhibit E to ProMOS's first Motion to Compel. Freescale also specifically objects to this topic because it is overly broad and lacks reasonable particularity with respect to any parameters reasonably related to the claims of the Chan patents. Freescale also objects to this topic to the extent it is not limited to the types of documentation Freescale generated for the cache-related sections of the Freescale products identified in Exhibit E to ProMOS's first motion to compel. Freescale further objects to this topic to the extent it calls for claim constructions or the correspondence between claim terms and Freescale products.

Without waiving any and subject to all of the foregoing objections and pursuant to the parties' agreement, Freescale will produce a witness(es) with knowledge regarding the types of documentation Freescale generates for the cache-related sections of the Freescale products identified in Exhibit E to ProMOS's motion to compel.

**DEPOSITION TOPIC NO. 6:**

Any website maintained by Freescale and any information set forth therein that discloses features associated with cache memories or cache memory controllers contained in Freescale Products.

**OBJECTIONS TO DEPOSITION TOPIC:**

Freescale objects to this topic to the extent it is not limited in scope to the Freescale products identified in Exhibit E to ProMOS's first Motion to Compel. Freescale also



specifically objects to this topic because it is overly broad and lacks reasonable particularity with respect to any parameters reasonably related to the claims of the Chan patents. Freescale also objects to this topic to the extent it is not limited to the types of documentation Freescale generated for the cache-related sections of the Freescale products identified in Exhibit E to ProMOS's first motion to compel. Freescale further objects to this topic to the extent it calls for claim constructions or the correspondence between claim terms and Freescale products.

Without waiving any and subject to all of the foregoing objections and pursuant to the parties' agreement, Freescale will produce a witness(es) with knowledge regarding the types of documentation Freescale generates for the cache-related sections of the Freescale products identified in Exhibit E to ProMOS's motion to compel.

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*/s/ Mary B. Graham (#2256)*

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November 28, 2007  
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